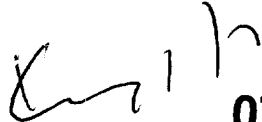


**A RESOLUTION**

 **07-R-1902**

**BY COUNCILMEMBER KWANZA HALL**

A RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT AND EXECUTE AGREEMENTS TO PERMIT THE INSTALLATION OF A PERMANENT UNDERGROUND VAULT WITHIN AND UNDER THE PUBLIC RIGHT-OF-WAY OF SEVENTEENTH STREET BETWEEN SPRING STREET AND WEST PEACHTREE STREET AND A FOUNDATION SYSTEM THAT INCLUDES TIE-BACK RODS AND A SHORING SYSTEM WITHIN AND UNDER THE PUBLIC RIGHTS-OF-WAY OF (1) SPRING STREET BETWEEN SEVENTEENTH STREET AND SIXTEENTH STREET, (2) SIXTEENTH STREET BETWEEN WEST PEACHTREE STREET AND SPRING STREET, (3) WEST PEACHTREE STREET BETWEEN SIXTEENTH STREET AND SEVENTEENTH STREET AND (4) SEVENTEENTH STREET BETWEEN WEST PEACHTREE STREET AND SPRING STREET, SAID RIGHTS-OF-WAY LYING AND BEING IN LAND LOT 108 OF THE 17TH DISTRICT OF FULTON COUNTY, WHEREIN THE GRANTEE RESERVES THE RIGHT TO LIMIT AND REGULATE THE USAGE OF THE SURFACE, SUB SURFACE AND AERIAL SPACES WITHIN THE RIGHTS-OF-WAY; TO PROVIDE CONDITIONS FOR ALLOWING SAME; AND FOR OTHER PURPOSES.

**WHEREAS**, Midtown Heights, LLC (hereinafter referred to as the "Owner") is the fee simple owner of certain parcels of land adjoining the public-rights-of-way of Spring Street, Sixteenth Street, West Peachtree Street and Seventeenth Street, located in Land Lot 108 of the 17th District of Fulton County, State of Georgia, as more particularly described on Exhibit A attached hereto and by this reference made a part hereof (hereinafter collectively referred to as the "Tract"); and

**WHEREAS**, Owner desires to obtain permission from the City of Atlanta to construct and maintain a permanent underground vault within the right-of-way below the surface of Seventeenth Street and a permanent foundation system which employs tie-back rods and a shoring system within the rights-of-way below the surface of Spring Street, Sixteenth Street, West Peachtree Street and Seventeenth Street.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA THAT:**

1. The Mayor is authorized to accept and execute on behalf of the City of Atlanta agreements between the City and Owner, which permits Owner to construct and maintain a permanent underground vault in the right-of-way under Seventeenth Street and the tie-back rods and shoring system in the public rights-of-way under Spring Street, Sixteenth Street, West Peachtree Street and Seventeenth Street for the benefit of development on the Tract.

2. The Commissioner of Public Works, acting as the Mayor's designee, is authorized to review and approve the terms and conditions for the construction and maintenance of the permanent underground vault and for the construction, maintenance, and de-tensioning of said tie-back rods and shoring system, and to review and approve the plans for any construction, relocation and/or modification to the referenced underground vault or tie-back rods and shoring system; and
3. The City Attorney is hereby directed to provide and review the agreements for execution by the Mayor, to be approved by the City Attorney as to form; and
4. These agreements shall not become binding on the City and the City shall incur no liability upon same until such agreements have been executed by the Mayor and delivered to Owner.

**Exhibit "A"**

LEGAL DESCRIPTION

**TRACT 1**

(Northern Tract)

All that parcel of land lying in Land Lot 108 of the 17th District of Fulton County, Georgia and more particularly described as follows:

Beginning at a right of way monument found at the intersection of the Southerly right of way of 17th Street and the Easterly right-of-way of Spring Street.

THENCE South 72 degrees 37 minutes 55 seconds East along said Southerly right-of-way line for a distance of 93.48 feet to an iron pin set;

THENCE along a curve to the left having a radius of 396.62 feet and an arc length of 78.96 feet, being subtended by a chord of South 78 degrees 26 minutes 28 seconds East for a distance of 78.83 feet to a right-of-way monument found;

THENCE South 04 degrees 55 minutes 38 seconds West for a distance of 8.24 feet to a right-of-way monument found;

THENCE South 83 degrees 43 minutes 34 seconds East for a distance of 9.92 feet to a right-of-way monument found;

THENCE North 05 degrees 42 minutes 38 seconds East for a distance of 8.39 feet to a right-of-way monument found;

THENCE along a curve to the left having a radius of 387.00 feet and an arc length of 8.36 feet, being subtended by a chord of South 87 degrees 04 minutes 08 seconds East for a distance of 8.36 feet to a right-of-way monument found;

THENCE along a curve to the left having a radius of 390.20 feet and an arc length of 137.91 feet, being subtended by a chord of North 82 degrees 40 minutes 18 seconds East for a distance of 137.19 feet to a right-of-way monument found on the westerly right-of-way line of West Peachtree Street;

THENCE South 28 degrees 47 minutes 55 seconds East along said westerly right-of-way line for a distance of 92.42 feet to an iron pin set;

THENCE South 00 degrees 56 minutes 24 seconds West along said westerly right-of-way line for a distance of 74.17 feet to an iron pin set;

THENCE leaving said westerly right-of-way line proceed North 89 degrees 52 minutes 34 seconds West for a distance of 188.78 feet to an iron pin set;

THENCE South 03 degrees 57 minutes 05 seconds West for a distance of 150.15 feet to a pk nail found;

THENCE South 78 degrees 52 minutes 47 seconds West for a distance of 2.26 feet to an iron pin set on the northerly line of a 10 feet wide alley;

THENCE North 89 degrees 32 minutes 12 seconds West along the northerly line of said alley for a distance of 57.40 feet to an iron pin set;

THENCE South 76 degrees 00 minutes 38 seconds West along the northerly line of said alley for a distance of 147.07 feet to a iron pin set on the easterly right-of-way line of Spring Street;

THENCE leaving the northerly right-of-way line of said alley and continuing along the easterly right-of-way line of Spring Street North 04 degrees 02 minutes 22 seconds East for a distance of 244.35 feet to a 1" open top pipe found;

THENCE North 03 degrees 38 minutes 34 seconds East along said right-of-way line for a distance of 107.30 feet to a 1/2" rebar found;

THENCE North 38 degrees 11 minutes 47 seconds East along said right-of-way line for a distance of 5.35 feet to a right of way monument found;

THENCE North 38 degrees 15 minutes 56 seconds East along said right-of-way line for a distance of 16.05 feet to a right of way monument found and the TRUE POINT OF BEGINNING.

## **TRACT 2**

(Ten Foot (10') Alley)

All that parcel of land lying in Land Lot 108 of the 17th District of Fulton County, Georgia and more particularly described as follows:

To find the TRUE POINT OF BEGINNING commence at a right-of-way monument found at the intersection of the easterly right-of-way of Spring Street and the Southerly right-of-way of 17th street;

THENCE South 38 degrees 15 minutes 56 seconds West 16.05 feet to a right-of-way monument located on the Easterly right-of-way of Spring Street;

THENCE along said right-of-way South 38 degrees 11 minutes 47 seconds West 5.35 feet to a right-of-way monument; Continue along the Easterly right-of-way of Spring Street the next two courses and distances:

THENCE South 03 degrees 38 minutes 34 seconds West 107.30 feet to a 1/2" rebar found;

THENCE South 04 degrees 02 minutes 22 seconds West 244.35 feet to a one inch open top pipe found and the TRUE POINT OF BEGINNING.

From the True Point of Beginning as thus established, leaving said Easterly right-of-way of Spring Street and proceed North 76 degrees 00 minutes 38 seconds East for a distance of 147.07 feet to an iron pin set;

THENCE South 89 degrees 32 minutes 12 seconds East for a distance of 57.40 feet to an iron pin set;

THENCE South 00 degrees 03 minutes 22 seconds East for a distance of 114.67 feet to a pk nail found;

THENCE South 00 degrees 28 minutes 53 seconds West for a distance of 149.68 feet to an iron pin set on the Northerly right-of-way line of 16th Street;

THENCE North 89 degrees 38 minutes 12 seconds West along said northerly right-of-way line for a distance of 10.35 feet to an iron pin set;

THENCE leaving said northerly right-of-way line and proceed North 00 degrees 34 minutes 15 seconds East for a distance of 244.80 feet to an iron pin set;

THENCE North 46 degrees 13 minutes 37 seconds West for a distance of 14.20 feet to an iron pin set;

THENCE North 89 degrees 54 minutes 12 seconds West for a distance of 36.92 feet to a 1/2" rebar found;

THENCE South 76 degrees 43 minutes 29 seconds West for a distance of 49.85 feet to a two-inch open top pipe found;

THENCE South 75 degrees 20 minutes 13 seconds West for a distance of 49.17 feet to an iron pin set;

THENCE South 76 degrees 26 minutes 36 seconds West for a distance of 50.14 feet to an iron pin set on the Easterly right-of-way of Spring Street;

THENCE along said right-of-way way line North 05 degrees 22 minutes 18 seconds East for a distance of 10.20 feet to a one-inch open top pipe found and the TRUE POINT OF BEGINNING.

LESS AND EXCEPT that certain five foot (5') wide strip of land consisting of the eastern portion of the above described ten foot (10') alley as said alley runs south to north parallel to Spring Street.

### **TRACT 3**

(Southern Tract)

All that parcel of land lying in Land Lot 108 of the 17th District of Fulton County, Georgia and more particularly described as follows:

To find the TRUE POINT OF BEGINNING commence at a right-of-way monument found at the intersection of the easterly right-of-way of Spring Street and the Southerly right-of-way of 17th street;

THENCE South 38 degrees 15 minutes 56 seconds West 16.05 feet to a right-of-way monument located on the Easterly right-of-way of Spring Street;

THENCE along said right-of-way South 38 degrees 11 minutes 47 seconds West 5.35 feet to a right-of-way monument; Continue along the Easterly right-of-way of Spring Street the next three courses and distances:

THENCE South 03 degrees 38 minutes 34 seconds West 107.30 feet to a 1/2" rebar found;

THENCE South 04 degrees 02 minutes 22 seconds West 244.35 feet to a one-inch open top pipe found on the northerly line of a 10 feet wide alley;

THENCE leaving said northerly line proceed South 05 degrees 22 minutes 18 seconds West for a distance of 10.20 feet to an iron pin set on the southerly line of a 10 feet wide alley and the TRUE POINT OF BEGINNING.

From the TRUE POINT OF BEGINNING as thus established, THENCE leaving said easterly right-of-way proceed North 76 degrees 26 minutes 36 seconds East along said southerly line for a distance of 50.14 feet to an iron pin set;

THENCE North 75 degrees 20 minutes 13 seconds East along said southerly lie for a distance of 49.17 feet to a two-inch open top pipe found;

THENCE North 76 degrees 43 minutes 29 seconds East along said southerly line for a distance of 49.85 feet to a 1/2-inch rebar found;

THENCE South 89 degrees 54 minutes 12 seconds East along said southerly line for a distance of 36.92 feet to an iron pin set on the westerly line of a 10 feet wide alley;

THENCE leaving said southerly line proceed South 46 degrees 13 minutes 37 seconds East along said westerly line for a distance of 14.20 feet to an iron pin set;

THENCE South 00 degrees 34 minutes 15 seconds West along said westerly line for a distance of 244.80 feet to an iron pin set on the Northerly right-of-way line of 16th street;

THENCE leaving said westerly line proceed North 89 degrees 27 minutes 23 seconds West along said northerly right-of-way line for a distance of 48.26 feet to a one and a half inch open top pipe found;

THENCE North 89 degrees 30 minutes 22 seconds West along said northerly right-of-way line for a distance of 48.38 feet to a 1/2-inch rebar found;

THENCE North 89 degrees 27 minutes 07 seconds West along said northerly right-of-way line for a distance of 96.96 feet to a one-inch open top pipe found at the intersection of the Easterly right-of-way Spring Street with the Northerly right-of-way of 16th street;

THENCE leaving said northerly right-of-way line proceed North 00 degrees 59 minutes 26 seconds East along said easterly right-of-way line for a distance of 151.10 feet to a 1/2 inch rebar found;

THENCE North 01 degrees 13 minutes 31 seconds East along said northerly right-of-way line for a distance of 66.16 feet to an iron pin set and the TRUE POINT OF BEGINNING.